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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,186	01/12/2004	Michael Lindner	NOS-101	2285

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EXAMINER

PATEL, DHIRUBHAI R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,186

Applicant(s)

LINDNER, MICHAEL

Examiner

DHIRU R PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 16-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16 line 2, use of the term "and/or" renders claim 16.

In claim 17 line 2, what is PET?.PET should be spelled out completely.

In claim 18 line 2, what is PET?.PET should be spelled out completely.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

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2 Claims 1-8, 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al (5,256,233).

Winter et al disclose:

Regarding claim 1, a protective device 20 for elongated objects, comprising: a corrugated tube 21 for receiving an elongated object (see fig 1, column 3 lines 3-15); a textile layer 27 arranged on an exterior of the corrugated tube (see fig 5, column 3 lines 5-20) ; and a polymeric material layer 28 arranged radially outside of the textile layer (see fig 5, column 5 lines 40-45), but fails to disclose said layer being made from a metallic layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of winter et al with said layer being made from a metallic layer , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 2, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above including, the corrugated tube comprises at least one of the group consisting of other plastic materials (see column 6 lines 20-30).

Regarding claim 3, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above including, wherein the textile layer comprises a braided, knit (see column 5 lines 28-35).

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Regarding claim 4, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above including, the textile layer comprises at least one of the group consisting of a polyester filament (see column 6 lines 20-30).

Regarding claim 5, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above , but fails to the textile layer comprises a monofilament or a multifilament. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Winter et al with said textile layer comprises a monofilament or a multifilament , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 6, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, but fails to disclose textile layer being glued onto the corrugated tube . It would have been an obvious matter of design choice to use textile layer being glued onto the corrugated tube, since applicant has not disclosed that said textile layer being glued onto the corrugated tube solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said textile layer being glued onto the corrugated tube of the modified assembly of Winter et al.

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Regarding claim 7, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, but fails to disclose an adhesive between the corrugated tube and the textile layer for gluing the textile layer onto the corrugated tube. It would have been an obvious matter of design choice to use an adhesive between the corrugated tube and the textile layer for gluing the textile layer onto the corrugated tube , since applicant has not disclosed that an adhesive between the corrugated tube and the textile layer for gluing the textile layer onto the corrugated tube solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with an adhesive between the corrugated tube and the textile layer for gluing the textile layer onto the corrugated tube of the modified assembly of Winter et al.

Regarding claim 8, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, but fails to disclose the adhesive is present in the form of a convolution or a helix on the surface of the corrugated tube, and applicant doesn't state a particular problem is solved by and applicant doesn't state a particular problem is solved by the adhesive is present in the form of a convolution or a helix on the surface of the corrugated tube. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Winter et al with the adhesive being present in the form of a convolution or a helix on the

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surface of the corrugated tube, since more than a mere change of form is necessary for patentability. In re Span-Deck Inc. V. Fab-con, Inc. (CA 8, 1982) 215 USPQ 835.

Regarding claim 12, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, including the outer metallic layer comprises at least one metal foil web (see column 5 lines 20-30), which is wound on the textile layer in the form of a convolution (see fig 4).

Regarding claim 13, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, with respect to the at least one foil web is overlappingly wound on the textile layer. It is noted that the modified assembly of Winter meet the structural limitations.

Regarding claim 14, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, with respect to the at least one foil web is wound on the textile layer in such a way that a double- or multi-layered structure of the metal foil is formed by the overlap. It is noted that the modified assembly of Winter meet the structural limitations.

Regarding claim 15, the modified assembly of Winter et al disclose all the features of the claimed invention as shown above, but fails to disclose the at least one metal foil web comprises several layers of foils of at least one metal placed on top of each other. It would have been an obvious matter of design choice to use the at least one metal foil web comprises several layers of foils of

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at least one metal placed on top of each other, since applicant has not disclosed that the at least one metal foil web comprises several layers of foils of at least one metal placed on top of each other solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with the at least one metal foil web comprises several layers of foils of at least one metal placed on top of each other of Winter et al.

Regarding claims 16-18, considering 112 second paragraph, claims 16-18 are included in this rejection as best understood.

Allowable Subject Matter

3. Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhiru Patel
Primary Examiner
Group Art Unit 2831
October 18, 2004


DHIRU R. PATEL
PRIMARY EXAMINER
10/18/04